UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Michael S. McManus
Chief Bankruptcy Judge
Sacramento, California

May 3, 2004 at 9:00 a.m.

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1. 04-22619-A-11 CALIFORNIA IMAGE ASSOCIATES CONT. STATUS CONFERENCE
3-16-04 [1]

Tentative Ruling: None. Appearances are required.

2. 04-22619-A-11 CALIFORNIA IMAGE ASSOCIATES HEARING - ORDER TO SHOW CAUSE RE DISMISSAL, CONVERSION OR IMPOSITION OF SANCTIONS
4-7-04 [11]

Tentative Ruling: The petition shall remain pending. On March 16, 2004, the debtor filed a petition for relief under chapter 11. However, the debtor did not file the necessary documents required by Federal Rule of Bankruptcy Procedure 1007(b)(1): Summary of Schedules, Schedules A, B, D, E, F, G, H, Statement of Financial Affairs, Attorney Disclosure of Compensation and Equity Security Holders. On April 20, 2004 the debtor filed these documents.

3. 03-31931-A-7 LUCIENNE JENNINGS HEARING - MOTION TO RECONSIDER DISMISSAL OF CHAPTER 7 AND REQUEST TO VACATE DISMISSAL
PGM #1 3-24-04 [94]

Tentative Ruling: On October 31, 2003 the debtor filed a petition for relief under chapter 13 but the case was converted to a petition under chapter 7 on January 26, 2004. On March 1, 2004 the chapter 7 trustee filed a "no asset" report.

On February 5, 2004 the debtor filed a handwritten letter asking this court to dismiss her case. The court considered the letter to be a motion and notice of a hearing was given to all originally scheduled creditors as well as the trustee. On February 8, 2004, he court served notice of the debtor's request for dismissal and of the March 1 hearing on that request. There was no opposition presented at the hearing and on March 3, 2004 this court filed its order dismissing the petition.

Damon Freedle and Eugene R. and Betty Van der Vlugt (the "movants,") ask this court to vacate the dismissal order. The creditors believe that the debtor failed to notice them of the case. On January 13, 2004 Damon Freedle filed a proof of claim for $9,500. On February 10, 2004 Eugene R. and Betty Van der Vlugt became aware of the bankruptcy filing and submitted a proof of claim for $30,000.

On February 5, 2004 the debtor sold her residence for $466,000. The movants argue that the debtor conducted this sale without approval or knowledge of this court. Whether or not conducted with court approval, the court notes that

after deducting secured claims and the debtor's homestead exemption from the sale price, there is no remaining equity.

The debtor filed a response to the movants's motion. She claims that she is not responsible for the movants's claim. Apparently, the debtor, in her capacity as an officer of Kingss do Brasil, Inc., signed a note payable to Eugene R. and Betty Van der Vlugt for $30,000. She claims she is not personally liable on this note and has attached the note and a copy of the check given by the movants' to made to Kingss do Brasil, Inc.

The movants argue that the dismissal should be vacated. The movants argue the request to dismiss was granted because the debtor was delinquent in her chapter 13 plan payments, but the case was converted to a chapter 7 prior to the chapter 13 trustee's request for dismissal. In other words, the movants seem to think that the case was dismissed at the request of the chapter 13 trustee. It was not. It was dismissed after conversion at the request of the debtor. The movants apparently did not receive notice of the hearing because they were not originally listed by the debtor on her original schedules and on the mailing matrix.

The note the debtor signed was not signed in her personal capacity, she signed it as a corporate officer. This note was the corporation's debt and not the debtor's. As such, the debtor was not required to notice the movants. If the movants seek payment for their note they should proceed to state court for a remedy against the corporation that borrowed money from them. The movants are not the debtor's creditors.

Even if this is incorrect, this is a no asset chapter 7 case. Reinstating the case will accomplish nothing toward paying the movants.

The motion to reconsider will be denied.

4.	03-33741-A-7 MPD #1 MTG. ELECTR. REGIS. SYSTEMS, INC., VS.	JOSEPH SCOTT	HEARING - MOTION FOR RELIEF FROM AUTOMATIC STAY 4-6-04 [29]

Final Ruling: The motion will be dismissed without prejudice.

The motion is moot. At a hearing on April 26, 2004 the court dismissed the petition. An order was entered on April 28. The automatic stay expires as a matter of law. See 11 U.S.C. § 362(c).

5.	01-29952-A-7 KWS #9	JOHN HATCHER	HEARING - APPLICATION OF THE WHITTALL-SCHERFEE LAW OFFICE FOR FIRST INTERIM ALLOWANCE OF ATTORNEYS' FEES AND COSTS ($10,100.00 FEES; $222.00 EXPENSES) 4-1-04 [146]

Final Ruling: This compensation motion has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1) (effective Dec. 23, 2002). The failure of the trustee, the debtor, the United States Trustee, and any other party in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). The defaults of the above-mentioned parties in

interest are entered and the matter will be resolved without oral argument.

On August 22, 2001 the debtor filed a petition for relief under chapter 12 but the case was converted to a petition under chapter 7 on December 7, 2001. Kenneth R. Sanders was appointed as the chapter 7 trustee.

On February 7, 2002 the movant, the Whittall-Scherfee Law Office, was approved to serve as the trustee's counsel. The trustee agreed to pay the movant $200 per hour, plus expenses for services performed.

The movant asks this court to approve this interim fee application for the billing period January 1, 2002 through March 18, 2004. During this period the movant provided 50.5 hours of legal services and incurred expenses in the amount of $222.00 for a total of $10,322.00. The motion states that the trustee has reviewed this application and has approved it.

11 U.S.C. § 330(a)(1)(A)&(B) permits approval of "reasonable compensation for actual, necessary services rendered by . . . [a] professional person" and "reimbursement for actual, necessary expenses." The movant has attached a detailed time record sheet describing the services provided. This court has reviewed those records and finds the services were necessary. Furthermore, the movant has filed a declaration describing the out of pocket costs incurred: UCC searches and filing fees. The court finds these costs were also necessary.

The compensation and the costs are approved. The motion will be approved.

6. 01-29956-A-7 HATCHER FARMS, INC. HEARING - APPLICATION OF THE WHITTALL-SCHERFEE LAW OFFICE FOR FIRST INTERIM ALLOWANCE OF ATTORNEYS' FEES AND COSTS ($13,300.00 FEES; $600.00 EXPENSES)
KWS #7 4-1-04 [93]

Final Ruling: This compensation motion has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1) (effective Dec. 23, 2002). The failure of the trustee, the debtor, the United States Trustee, and any other party in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). The defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

On August 22, 2001 the debtor filed a petition for relief under chapter 12 but the case was converted to a petition under chapter 7 on December 7, 2001. Kenneth R. Sanders was appointed as the chapter 7 trustee.

On February 7, 2002 the movant, the Whittall-Scherfee Law Office, was approved to serve as the trustee's counsel. The trustee agreed to pay the movant $200 per hour, plus expenses for services performed.

The movant asks this court to approve this interim fee application for the billing period January 1, 2002 through March 18, 2004. During this period the movant provided 66.5 hours of legal services and incurred expenses in the amount of $600.00 for a total of $10,322.00. The motion states that the trustee has reviewed this application and has approved it.

11 U.S.C. § 330(a)(1)(A)&(B) permits approval of "reasonable compensation for actual, necessary services rendered by . . . [a] professional person" and "reimbursement for actual, necessary expenses." The movant has attached a detailed time record sheet describing the services provided. This court has reviewed those records and finds the services were necessary. Furthermore, the movant has filed a declaration describing the out of pocket costs incurred: the filing fees for four adversary proceedings. The court finds these costs were also necessary. The hourly rate billed by counsel is commensurate with the rates charges by comparable attorneys with similar practices. The rate charged is reasonable.

The compensation and the costs are approved. The motion will be approved.

7.	01-29956-A-7 03-2444 KENNETH SANDERS, VS. KEVIN EDEN AND HELENA CHEMICAL CO.	HATCHER FARMS, INC. KWS #2	HEARING - MOTION TO APPROVE COMPROMISE OF CONTROVERSY WITH HELENA CHEMICAL, INC. 4-1-04 [45]

Final Ruling: This motion to approve the compromise of controversy has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1) (effective Dec. 23, 2002). The failure of the debtor, the United States Trustee, and any other party in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). The defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

On August 22, 2001 the debtor filed a petition for relief under chapter 12 but the case was converted to a petition under chapter 7 on December 7, 2001. Kenneth R. Sanders was appointed as the chapter 7 trustee.

On August 21, 2994 the trustee filed an adversary proceeding and sought recovery of a preference in the amount of $58,117.96. The defendant, Helena Chemical, has offered to settle and pay the total amount of $3,000.

The trustee seeks approval of this compromise in exchange for the trustee's agreement to dismiss this proceeding. The trustee argues that the compromise is fair and equitable because the legal costs and expenses of taking the proceeding to trial could exceed any recovery to the estate.

On a motion by the trustee and after notice and a hearing, the court may approve a compromise or settlement. Fed. R. Bankr. P. 9019. Approval of a compromise must be based upon considerations of fairness and equity. The court must consider and balance four factors: (1) the probability of success in the litigation; (2) the difficulties, if any, to be encountered in the matter of collection; (3) the complexity of the litigation involved; and (4) the paramount interest of the creditors with a proper deference to their reasonable views. In re Woodson, 839 F.2d 610 (9th Cir. 1988).

Here, the court agrees that the compromise is in the best interest of the creditors and the estate. The potential costs in brining this proceeding to trial may be high and the potential recovery may be low; therefore, it is in the estate's and creditor's best interest to approve the compromise.

The motion will be approved.

8. 01-29956-A-7 HATCHER FARMS, INC. HEARING - MOTION TO
03-2445 KWS #3 APPROVE COMPROMISE OF CONTROVERSY
KENNETH SANDERS, VS. WITH FARM AIR FLYING SERVICE, INC.
FARM AIR FLYING SERVICE, INC. 4-1-04 [17]

Final Ruling: This motion to approve the compromise of controversy has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1) (effective Dec. 23, 2002). The failure of the debtor, the United States Trustee, and any other party in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). The defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

On August 22, 2001 the debtor filed a petition for relief under chapter 12 but the case was converted to a petition under chapter 7 on December 7, 2001. Kenneth R. Sanders was appointed as the chapter 7 trustee.

On August 21, 2003 the trustee filed an adversary proceeding against Farm Air Flying Service, Inc. The trustee sought to recover an alleged preference of $25,009.84. The defendant has offered to settle paying a total of $4,000.00 in monthly installments of $1,000.00 for four months.

The trustee seeks approval of this compromise in exchange for the trustee's agreement to dismiss this proceeding. The defendant has articulated numerous defenses available that could possibly result in the trustee taking nothing. The trustee argues that the compromise is fair and equitable because the legal costs and expenses of taking the proceeding to trial could exceed any recovery to the estate.

On a motion by the trustee and after notice and a hearing, the court may approve a compromise or settlement. Fed. R. Bankr. P. 9019. Approval of a compromise must be based upon considerations of fairness and equity. The court must consider and balance four factors: (1) the probability of success in the litigation; (2) the difficulties, if any, to be encountered in the matter of collection; (3) the complexity of the litigation involved; and (4) the paramount interest of the creditors with a proper deference to their reasonable views. In re Woodson, 839 F.2d 610 (9th Cir. 1988).

Here, the court agrees that the compromise is in the best interest of the creditors and the estate. The defenses asserted by the defendant may result in the estate recovering nothing. The potential costs in brining this proceeding to trial may be high and the potential recovery may be low; therefore, it is in the estate's and creditors' best interest to approve the compromise.

The motion will be granted.

9. 01-29956-A-7 HATCHER FARMS, INC. HEARING - MOTION TO
03-2446 KWS #5 APPROVE COMPROMISE OF CONTROVERSY
KENNETH SANDERS, VS. WITH NATOMAS MUTUAL WATER CO.
NATOMAS MUTUAL WATER CO. 4-1-04 [42]

Final Ruling: This motion to approve the compromise of controversy has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1) (effective Dec. 23, 2002). The failure of the debtor, the United States Trustee, and any other party in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii)

is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). The defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

On August 22, 2001 the debtor filed a petition for relief under chapter 12 but the case was converted to a petition under chapter 7 on December 7, 2001. Kenneth R. Sanders was appointed as the chapter 7 trustee.

On August 21, 2003 the trustee filed an adversary proceeding against Natomas Mutual Water Company. The trustee sought to recover an alleged preference in the amount of $31,904.73. To settle the proceeding the defendant has offered to pay $1,500.00.

The trustee seeks approval of this compromise in exchange for the trustee's agreement to dismiss this proceeding. The defendant has articulated numerous defenses available that could possibly result in the trustee taking nothing. The trustee argues that the compromise is fair and equitable because the legal costs and expenses of taking the proceeding to trial could exceed any recovery to the estate.

On a motion by the trustee and after notice and a hearing, the court may approve a compromise or settlement. Fed. R. Bankr. P. 9019. Approval of a compromise must be based upon considerations of fairness and equity. The court must consider and balance four factors: (1) the probability of success in the litigation; (2) the difficulties, if any, to be encountered in the matter of collection; (3) the complexity of the litigation involved; and (4) the paramount interest of the creditors with a proper deference to their reasonable views. In re Woodson, 839 F.2d 610 (9th Cir. 1988).

Here, the court agrees that the compromise is in the best interest of the creditors and the estate. The defenses asserted by the defendant may result in the estate recovering nothing. The potential costs in brining this proceeding to trial may be high and the potential recovery may be low; therefore, it is in the estate's and creditors' best interest to approve the compromise.

The motion will be granted.

10. 01-29956-A-7 HATCHER FARMS, INC. — CONT. HEARING - DEFENDANT'S MOTION FOR SUMMARY JUDGMENT 12-31-03 [14]
03-2446 RSB #1
KENNETH SANDERS, VS.
NATOMAS MUTUAL WATER CO.

Final Ruling: The court finds that a hearing will not be helpful to its consideration and resolution of this matter. Accordingly, it is removed from calendar for resolution without oral argument.

Given the approval of the compromise, the motion for summary judgment is moot. The motion will be dismissed.

11. 01-29956-A-7 HATCHER FARMS, INC. — HEARING - MOTION TO APPROVE COMPROMISE OF CONTROVERSY WITH PATRICK WIGGIN 4-1-04 [17]
03-2452 KWS #4
KENNETH SANDERS, VS.
PATRICK WIGGIN

Final Ruling: This motion to approve the compromise of controversy has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1) (effective Dec. 23, 2002). The failure of the debtor, the United States

Trustee, and any other party in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). The defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

On August 22, 2001 the debtor filed a petition for relief under chapter 12 but the case was converted to a petition under chapter 7 on December 7, 2001. Kenneth R. Sanders was appointed as the chapter 7 trustee.

On August 21, 2003 the trustee filed an adversary proceeding against Patrick Wiggin. The trsutee sought to recover an alleged preference in the amount of $9,484.69. To settle the proceeding the defendant has offered to pay $1,000.00.

The trustee seeks approval of this compromise in exchange for the trustee's agreement to dismiss this proceeding. The trustee argues that the compromise is fair and equitable because the legal costs and expenses of taking the proceeding to trial could exceed any recovery to the estate.

On a motion by the trustee and after notice and a hearing, the court may approve a compromise or settlement. Fed. R. Bankr. P. 9019. Approval of a compromise must be based upon considerations of fairness and equity. The court must consider and balance four factors: (1) the probability of success in the litigation; (2) the difficulties, if any, to be encountered in the matter of collection; (3) the complexity of the litigation involved; and (4) the paramount interest of the creditors with a proper deference to their reasonable views. In re Woodson, 839 F.2d 610 (9th Cir. 1988).

Here, the court agrees that the compromise is in the best interest of the creditors and the estate. The potential costs in brining this proceeding to trial may be high and the potential recovery may be low; therefore, it is in the estate's and creditors' best interest to approve the compromise.

The motion will be granted.

12. 01-29958-A-7 HATCHER FARMS
KWS #8

HEARING - APPLICATION OF THE WHITTALL-SCHERFEE LAW OFFICE FOR FIRST INTERIM ALLOWANCE OF ATTORNEYS' FEES AND COSTS ($2,796.00)
4-1-04 [66]

Final Ruling: This compensation motion has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1) (effective Dec. 23, 2002). The failure of the trustee, the debtor, the United States Trustee, and any other party in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). The defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

On August 22, 2001 the debtor filed a petition for relief under chapter 12 but the case was converted to a petition under chapter 7 on December 7, 2001. Kenneth R. Sanders was appointed as the chapter 7 trustee.

On February 7, 2002 the movant, the Whittall-Scherfee Law Office, was approved

to serve as the trustee's counsel. The trustee agreed to pay the movant $200 per hour, plus expenses for services performed.

The movant asks this court to approve this interim fee application for the billing period January 1, 2002 through March 18, 2004. The movant provided 13.8 hours of legal services and incurred expenses of $36.00 for a total of $2,796.00. The motion states that the trustee has reviewed this application and has approved it.

11 U.S.C. § 330(a)(1)(A)&(B) permits approval of "reasonable compensation for actual, necessary services rendered by . . . [a] professional person" and "reimbursement for actual, necessary expenses." The movant has attached a detailed time record sheet describing the services provided. This court has reviewed those records and finds the services were necessary. Furthermore, the movant has filed a declaration describing the out of pocket costs incurred: UCC search expenses. The court finds these costs were also necessary. The hourly rate billed by counsel is commensurate with the rates charges by comparable attorneys with similar practices. The rate charged is reasonable.

The compensation and the costs are approved. The motion will be approved.

13. 04-20758-A-11 GALT COMMUNITY CONCILIO — HEARING - DEBTOR'S MOTION TO RATIFY POST-PETITION PAYMENTS OF PRE-PETITION CLAIMS AND TO EMPLOY BOOKKEEPER
DD #4 — 4-15-04 [34]

Tentative Ruling: Because less than 28 days' notice of the hearing was given by the debtor, this motion is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, the creditors, the trustee, the United States Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion.

14. 03-33574-A-11 EPPIE'S OF SACRAMENTO, INC. — CONT. HEARING - DEBTOR'S MOTION FOR AUTHORITY TO ASSUME UNEXPIRED LEASE OF NON-RESIDENTIAL REAL PROPERTY (6341 FLORIN BOULEVARD, SACTO.)
JPJ #6 — 4-7-04 [77]

Tentative Ruling: On April 26, 2004 this court ordered the conversion of this petition to one under chapter 7. Absent the consent of the chapter 7 trustee to proceed, the court intends to grant him a short continuance, such as one week, in order to give him time to review the matter.

15. 02-34084-A-13J CYNTHIA BRUNNEMER — STATUS CONFERENCE
03-2039 — 2-3-03 [1]
CYNTHIA BRUNNEMER, VS.
GARY BRUNNEMER, ET AL.

Final Ruling: The status conference is cancelled and adjourned. The parties have stipulated to the dismissal of the proceeding.

16. 03-33086-A-12L HARDAVE/SUKHBINDER DULAI — HEARING - MOTION TO DISMISS (DEBTOR HAS NO PROPOSED PLAN PENDING; DEBTOR DID NOT APPEAR AT THE LAST CONTINUED MEETING OF CREDITORS) 4-14-04 [33]
LJL #1

Tentative Ruling: Lawrence J. Loheit, the chapter 12 trustee, moves this court for an order dismissing this case pursuant to 11 U.S.C. § 1208(c).

Pursuant to 11 U.S.C. § 1208(c) the court may dismiss a case for cause. Cause includes: (1) unreasonable delay; (2) nonpayment of any required fees and charges; (3) failure to file a timely plan (4) failure to make timely payments; (5) denial of a confirmation of a plan; (6) material default by the debtor under the plan; (7) revocation of an order of confirmation; (8) termination of a confirmed plan; and (9) continuing loss of the estate and absence of a reasonable likelihood of rehabilitation.

The debtor filed a petition for relief under chapter 12 on December 4, 2003. The deadline to file a plan was March 3, 2004 but the debtors have no proposed plan pending. Furthermore, the debtors did not appear at the meeting of creditors on April 1, 2004 and it was continued to April 29, 2004.

Here, the debtors are causing unreasonable delay by failing to file a plan by March 3. This untimely delay is prejudicial to the creditors. Dismissal of this case is proper pursuant to 11 U.S.C. § 1208(c)(1) & (3).

The motion will be granted.

17. 03-30996-A-11 ALFONSO FALLON — HEARING - MOTION FOR RELIEF FROM AUTOMATIC STAY 4-6-04 [76]
MPD #1
BANK OF AMERICA, NT&SA

Tentative Ruling: The motion will be denied.

The debtor in possession, Alfonso Fallon ("Fallon"), filed a chapter 11 bankruptcy petition on October 8, 2003. Fallon owns substantial real property assets, including a residence, vineyard, and winery.

On August 19, 1997 the debtor executed and delivered a note to the movant, Bank of American National Trust and Savings Association, in the principal amount of $140,000. The note is secured by a deed of trust that encumbers the property located at 10391 Valley Drive, Plymouth California 95669.

The movant asserts the debtor is in default and is owed each monthly payment from and after June 1, 2003. The movant argues that relief from the stay is proper pursuant to 11 U.S.C. § 362(d)(1) and (2) because it is not adequately protected and the debtor lacks equity. The movant claims that the property is encumbered by liens totaling $1,512,515.60 and is valued at $825,000.00. Furthermore, the movant claims it is not adequately protected because the debtor has ceased making the monthly payment due under the note.

The debtor has filed written opposition. The debtor argues that there is equity in the property and the movant is adequately protected. The court agrees.

The movant has a first deed of trust on the property valued at $825,000 with a

debt of less than $150,000. The substantial equity cushion adequately protects its interest in its collateral. Relief under section 362(d)(1) is not appropriate.

Furthermore, the debtor owns three separate parcels or real property. The movant is secured by one of the parcels but the liens junior to the movant's lien are also secured by other parcels. For instance, Amcap holds a junior deed of trust on the subject property. It is owed approximately $550,000. The debtor to Amcap, however, is also secured by a first deed of trust on property with a value of $2,500,000 to $4,250,000. Marty Yanes is owed approximately $720,000. This is secured by a junior deed of trust on the subject property as well as deeds of trust on two other parcels. When the value of all parcels and all secured debt is taken into account there is equity in the subject property as well as the other two parcels.

The motion attempts to create the illusion of a lack of equity by ignoring all collateral held by the holders of junior liens. When that additional property is considered, all secured creditors are adequately protected.

On April 19, 2004 this court approved the employment of an auctioneer for the sale of the debtor's parcels of property. This court also approved the debtor's disclosure statement. The sale was described in adequate detail in the disclosure statement and the debtor's plan calls for the sale of the three parcels of property. The removal of the subject property from the auction could have a negative effect on the marketability and value of the remaining two parcels.

This court finds that the debtor has equity in the subject property, that the subject property is necessary to the debtor's reorganization, and that the movant is adequately protected. All relief will be denied.